

The Honorable Ricardo S. Martinez

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

KENNETH FLEMING, JOHN DOE, R.K., and  
T.D.,

Plaintiffs,

v.

THE CORPORATION OF THE PRESIDENT  
OF THE CHURCH OF JESUS CHRIST OF  
LATTER-DAY SAINTS, a Utah corporation  
sole, a/d/a "MORMON CHURCH"; LDS  
SOCIAL SERVICES a/d/a LDS, a Utah  
corporation,

Defendants.

NO. 04-2338 RSM

SECOND DECLARATION OF  
MICHAEL ROSENBERGER

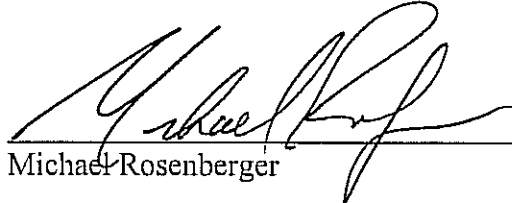
Michael Rosenberger, being duly sworn on oath, deposes and says:

1. I am one of the attorneys representing Defendants in this matter. I make this  
Declaration based upon personal knowledge.

2. Attached to this Declaration are true and accurate copies of excerpts from the  
depositions of Jack Onefrey (aka Loholt), Richard Pettit and Randall Borland.

1 I declare under the laws of the State of Washington and of the United States that the  
2  
3 foregoing is true and correct.  
4

5 DATED this 8<sup>th</sup> day of September, 2006.  
6

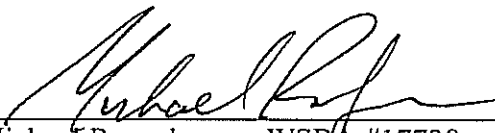
7  
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11 Michael Rosenberger  
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**CERTIFICATE OF SERVICE**

I hereby certify that on September 8, 2006, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following. The parties will additionally be served in the manner indicated.

Michael T. Pfau Gordon, Thomas, Honeywell, Malanca, Peterson & Daheim LLP P.O. Box 1157 Tacoma, WA 98401-1157 Telephone: (206) 676-7500 Facsimile: (206) 676-7575 E-Mail: <a href="mailto:mpfau@gth-law.com">mpfau@gth-law.com</a>  <input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Fax <input type="checkbox"/> Federal Express	Timothy D. Kosnoff Law Offices of Timothy D. Kosnoff, P.C. 600 University Street, Suite 2101 Seattle, WA 98101 Telephone: (206) 676-7610 Facsimile: (425) 837-9692 E-Mail: <a href="mailto:timkosnoff@comcast.net">timkosnoff@comcast.net</a>  <input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Fax <input type="checkbox"/> Federal Express
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Court Reporters & Video

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

KENNETH FLEMING and JOHN DOE, )  
 )  
Plaintiffs, )  
 )  
vs. ) No. C04-2338RSM  
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THE CORPORATION OF THE )  
PRESIDENT OF THE CHURCH OF )  
JESUS CHRIST OF LATTER-DAY )  
SAINTS, a Utah corporation )  
sole, a/k/a the "MORMON )  
CHURCH," LDS SOCIAL SERVICES, )  
a/k/a LDS FAMILY SERVICES, )  
a Utah corporation, )  
 )  
Defendants. )

VIDEOTAPED DEPOSITION OF JACK A. ONEFREY

January 27, 2006

Seattle, Washington

Byers & Anderson, Inc.

Court Reporters/Video/Videoconferencing

One Union Square 2208 North 30th Street, Suite 202  
600 University St. Tacoma, WA 98403  
Suite 2300 (253) 627-6401  
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Court Reporters & Video

Page 138

1 Q Did you ever tell Chelsey Wieder that you had had sex  
2 with more than 250 children in your life?

3 A No.

4 Q Never made that statement?

5 A No.

6 Q Never said anything like that to her?

7 A No.

8 Q Did you ever go to LDS Social Services for sexual  
9 deviancy counseling or treatment?

10 A Yes.

11 Q Okay. About what time period?

12 A Probably -- I'm really not sure on that.

13 Q But it was while you were in the Kent 2nd Ward in the  
14 1970s?

15 A Yes.

16 Q Okay. And you were referred there by a bishop?

17 MR. WOLFE: We're going to object,  
18 assert privilege.

19 Q (By Mr. Kosnoff) You were referred to or sent to LDS  
20 Social Services by Bishop Borland, isn't that correct?

21 MR. WOLFE: Assert privilege.

22 Q (By Mr. Kosnoff) When you went to LDS Social Services,  
23 you told them about your -- you were truthful about  
24 your sexual contact with children, weren't you?

25 A Yes.

Jack A. Onefrey  
January 27, 2006

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Page 146

1 we're trying to establish.

2 MR. NASH: Well, then we'll wait and  
3 reserve the issue.

4 Q (By Mr. Kosnoff) What was the -- what was the time  
5 period that you went to -- the one year that you were  
6 going to LDS Social Services?

7 A I can't remember when that was.

8 (Mr. Frey enters.)  
9

10 Q (By Mr. Kosnoff) Was it -- how soon after you were  
11 removed as scoutmaster -- assistant scoutmaster in  
12 February of 1973?

13 A I really can't remember the -- the date.

14 Q But was it soon after that?

15 A I have two recollections, and I really don't know.

16 Q Okay. Let's talk about the first recollection you  
17 have. What is the first recollection you have?

18 A That I might have gone right after Bishop Borland.

19 Q And the second recollection?

20 A It might have been after that sometime somewhere.

21 Q Do you think there may have been more than two times  
22 you went to LDS Social Services, that is, two separate  
23 periods of counseling?

24 A I only went one period, but I don't know where in  
25 the...

Jack A. Onefrey  
January 27, 2006

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Jack A. Onefrey  
January 27, 2006

December 13, 2005

RICHARD PETTIT

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

---

KENNETH FLEMING and JOHN DOE,	)	
	)	Case No. C04-2338 RSM
Plaintiffs,	)	
	)	
vs.	)	Videotaped Deposition
	)	of:
THE CORPORATION OF THE PRESIDENT)	)	RICHARD PETTIT
OF THE CHURCH OF JESUS CHRIST OF)	)	
LATTER-DAY SAINTS, a Utah	)	
corporation sole, a/d/a "MORMON	)	
CHURCH"; LDS SOCIAL SERVICES,	)	
a/d/a LDS FAMILY SERVICES, a	)	
Utah corporation,	)	
	)	
Defendants.	)	

---

December 13, 2005  
9:24 a.m.

Kirton & McConkie  
1800 Eagle Gate Tower  
60 East South Temple  
Salt Lake City, UT 84145-0120

Sharon Morgan, CSR, RPR, CRR  
Notary Public in and for the State of Utah

GARCIA & LOVE  
801.538.2333

1 A. He was shocked.

2 MR. FREY: At this point -- did you expect  
3 your conversation -- let me interpose an objection and  
4 ask a question. Do you expect your conversation with  
5 Bishop Borland to be confidential?

6 THE WITNESS: Yes.

7 MR. FREY: Are you willing to waive that  
8 confidentiality and testify about it today, about what  
9 you spoke to about with Bishop Borland?

10 THE WITNESS: Yes.

11 MR. FREY: Okay. Go ahead, Counsel.

12 Q. (By Mr. Kosnoff) When you went to Bishop  
13 Borland, you were not going to him for purposes of  
14 confessing your sin, were you?

15 A. No.

16 Q. And you would hope that he would -- that --  
17 strike that. What was your reason for going to Bishop  
18 Borland?

19 A. To inform him of the situation.

20 Q. And was it your hope or intention that Bishop  
21 Borland would use this information and take some kind  
22 of concrete action with respect to Jack LaHolt?

23 A. Yes.

24 Q. And what was your -- what did you hope that  
25 he would do?

December 13, 2005

RICHARD PETTIT

Page 33

1 A. Correct it.

2 Q. What did Bishop Borland say to you?

3 A. I don't remember.

4 Q. Did he tell you that he would do something  
5 about Jack?

6 A. I don't remember.

7 Q. Did he give you any kind of assurances that  
8 the matter would be handled?

9 A. Yes.

10 Q. And did you trust that the matter would be  
11 handled?

12 A. Yes.

13 Q. Was it handled?

14 A. Yes.

15 Q. To your knowledge, what happened with respect  
16 to Jack LaHolt?

17 A. Within one week he was released.

18 Q. How did you become aware that he had been  
19 released?

20 A. At the church service the following week.

21 Q. Did somebody communicate that to you?

22 A. Yes.

23 Q. Bishop Borland?

24 A. Yes.

25 Q. And he told you that he released Jack?

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FLEMING v. THE CORPORATION OF THE PRESIDENT OF THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS  
September 20, 2005 RANDALL BORLAND

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

KENNETH FLEMING and JOHN DOE, : No. C04-2338 RSM  
: (Judge Ricardo Martinez)  
:  
Plaintiffs, :  
:  
-v- :  
:  
THE CORPORATION OF THE :  
PRESIDENT OF THE CHURCH OF :  
JESUS CHRIST OF LATTER-DAY :  
SAINTS, a Utah corporation :  
sole, a/k/a "MORMON CHURCH"; :  
LDS SOCIAL SERVICES a/k/a :  
LDS FAMILY SERVICES, a Utah : Videotaped Deposition of:  
corporation, : RANDALL BORLAND  
:  
Defendants.:

September 20, 2005 - 9:08 a.m.

Location: Kirton & McConkie  
60 East South Temple, Suite 1800  
Salt Lake City, Utah

Diane W. Flanagan, RPR  
Notary Public in and for the State of Utah

GARCIA & LOVE  
801.538.2333

December 13, 2005

RICHARD PETTIT

Page 32

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22 of concrete action with respect to Jack LaHolt?

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25 he would do?

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September 20, 2005

RANDALL BORLAND

Page 57

1 A Okay.

2 Q So again my question is: Was this something that  
3 you learned in connection with pastoral counseling within  
4 the Church?

5 A Yes.

6 Q Was the information that you received something  
7 that you are required to keep confidential under the  
8 doctrines and teachings of your church?

9 A Yes.

10 Q Was the communication that you received something  
11 that you in fact kept confidential, that is, that you did  
12 not disclose to any other person?

13 A Let me make sure I understand that. A  
14 communication not disclosed to anybody else?

15 Q Correct.

16 A The answer to that question, if I've heard the  
17 question correct, is yes or -- let me rephrase it, and then  
18 tell you what I thought you said.

19 Q Go ahead.

20 A I did not disclose what was said confidentially to  
21 me to others.

22 Q Just so that I'm clear on this, you did not  
23 disclose the content of what was said to you by that person  
24 to any other person?

25 A The content of that conversation, that meeting, I

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September 20, 2005

RANDALL BORLAND

Page 58

1 did not.

2 Q Okay.

3 A The best of my recollection.

4 Q Okay. Did you ever make a referral to LDS Social  
5 Services for counseling Jack Loholt?

6 A I don't remember. I do not remember that.

7 Q Did you do anything or say anything to anyone else  
8 following the communication that you received from this  
9 person?

10 A Regarding specifics?

11 Q Anything.

12 A Yes.

13 Q What did you do or say?

14 A I talked --

15 MR. FREY: Again I'm going to caution you that if  
16 you took any steps in your capacity as a clergyman and  
17 ecclesiastical in accordance with the teachings and beliefs  
18 of the LDS religion that you are not obligated to break that  
19 confidentiality if in fact you learned that in those  
20 circumstances.

21 And for the record, Counsel, what I'm trying to do  
22 here is allow you to ask questions without reaching what I  
23 believe is a privilege that he has as a bishop to receive  
24 information, treat it with confidentiality, and act on it in  
25 an ecclesiastical fashion.

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801.538.2333